Atty. Docket No.: CA1459
PATENT APPLICATION

AMENDMENT UNDER 37 C.F.R. § 1.111
U.S. Application No.: 09/923,157

REMARKS

Claims 1-13 and 22-28 are all the claims pending in the application. Claims 2, 5 and 23 are being cancelled without prejudice. Claims 1, 3, 6, 13, 22 and 24 are being amended to more accurately recite the invented subject matter. No new matter is introduced.

Applicants thank the Examiner for courtesies extended to Applicants in connection with the Examiner's personal interview with Applicant's representative, which took place on April 19, 2006. During the interview, the Examiner suggested that Applicants incorporate limitations of claim 5 into claim 1.

Claims 1-7, 10, 12 and 22-26

The Examiner rejected claims 1-7, 10, 12 and 22-26 under 35 U.S.C. 103(a) as being allegedly unpatentable over Carini et al. (U.S. Patent No. 6,636,873) in view of Sicola et al. (U.S. Patent No. 6,629,264). Applicants respectfully traverse this rejection in view of amendments to independent claims 1 and 22, which were suggested by the Examiner during the aforesaid interview on April 19, 2006, and further in view of the following arguments.

First, Applicants respectfully submit that Carini et al. and Sicola et al. fail to teach or suggest the directory server recited in the aforesaid independent claims 1 and 22. In the Office Action, the Examiner states that the directory server is inherently taught in the portion of Carini et al. which describes maintenance of replication logs and replication statistics. In response, Applicants amend claims 1 and 22 to generally recite a feature of the invention wherein the directory server includes information on the first data center and the second data center. This

feature of the invention is not taught or suggested by the cited prior art. In addition, Applicants note that the Doctrine of Inherency does not extend beyond anticipation and, therefore, reliance on the inherency of the feature in the context of obviousness rejection is improper. In re Adams, 53 CCPA 996, 356 F.2d 998, 148 U.S.P.Q. 742 (1966). Inherency and obviousness are entirely different concepts. In re Rinehart, 531 F.2d 1048, 189 U.S.P.Q. 143 (CCPA 1976). Therefore, the Examiner may not rely on inherency to supply the teaching of directory server, which is missing from the cited prior art. For this reason, claims 1 and 22 are patentable.

Second, as Examiner suggested during the interview, Applicants incorporated limitations of former claim 5 into independent claims 1 and 22. Specifically, claims 1 and 22 recite a feature of the invention wherein the information about the first data center and the second data center is fetched from the directory server and wherein the fetched information includes proximity information for a source of the input. As Examiner appeared to acknowledge during the interview, this feature of the invention is also not taught or suggested by the prior art of record. Therefore, amended claims 1 and 22 are patentable for this additional reason as well.

Third, Applicants further respectfully submit that Carini et al. and Sicola et al. also do not teach or suggest a feature of the invention, wherein any of the data centers may be configured as a primary (source) of data or secondary (target) of data in a copy operation responsive to input received via any one of access gateways. Specifically, Carini et al. and Sicola et al. never mention that any system reconfiguration is performed to responsive to input received via any one of access gateways. This provides yet another reason for patentability of claim 1. Applicants further note that claim 22 also recites a similar unique feature, wherein any of data centers

initiates a bi-directional data copying operation with any other of data centers responsive to the input received via any one of access gateways. Because this feature is not taught by Carini et al. and Sicola et al., claim 22 is patentable for this additional reason as well.

With respect to Examiner's rejection of claims 3, 4, 6, 7, 10, 12, and 24-26, Applicants respectfully submit that Examiner's rejection of these claims is rendered moot by the present amendment of the parent claims 1 and 22 and that these claims are patentable at least due to their dependence on the patentable amended independent claims 1 and 22.

Claims 8, 9, 11, 27 and 28

The Examiner rejected claims 8, 9, 11, 27 and 28 under 35 U.S.C. 103(a) as being allegedly unpatentable over Carini et al. (U.S. Patent No. 6,636,873) in view of Sicola et al. (U.S. Patent No. 6,629,264) and further in view of Hale et al. (U.S. Patent Pub. No. 2002/0184516 A1). Applicants respectfully traverse this rejection in view of Applicants' amendments to claims 1 and 22 and further in view of the following arguments.

Specifically, with respect to Examiner's rejection of claims 8, 9, 11, 27 and 28, Applicants respectfully submit that Examiner's rejection of these claims is rendered moot by the present amendment of the parent claims 1 and 22 and that these claims are patentable at least due to their dependence on the patentable amended independent claims 1 and 22.

Claim 13

The Examiner rejected claim 13 under 35 U.S.C. 103(a) as being allegedly unpatentable over Hale et al. (U.S. Patent Pub. No. 2002/0184516 A1) in view of Sicola et al. (U.S. Patent No.

6,629,264). Applicants respectfully traverse this rejection in view of amendment to claim 13 and further in view of the following arguments.

Specifically, Applicants respectfully submit that neither Hale et al. nor Sicola et al. teach or suggest using a directory server to find a virtual volume corresponding to virtual volume name and network interface ID, as recited in the amended claim 13. The Examiner acknowledges that Sicola et al. does not teach a directory server. Hale et al. also is devoid of any such teaching. Therefore, claim 13 is patentable.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

SUGHRUE MION, PLLC
Telephone: (650) 625-8100
Facsimile: (650) 625-8110
MOUNTAIN VIEW OFFICE
23493
CUSTOMER NUMBER

Date: April 28, 2006

Pavel Pogodin
Registration No. 48,205

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this AMENDMENT UNDER 37 C.F.R § 1.111 is being facsimile transmitted to the U.S. Patent and Trademark Office this 28th day of April, 2006.

Mariann Tam